IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CIVIL REVISION NO. 1690 OF 2001

DATE OF DECISION: December 14, 2006.

Parties Name

Haryana State Agriculture Marketing Board and another

...PETITIONERS

VERSUS

M/s Rajesh Enterprises and another

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASBIR SINGH

PRESENT: Mr. Sanjeev Gupta,
Advocate, for the petitioners.

None for the respondents.

JASBIR SINGH, J. (oral)

ORDER:

This order will dispose of present revision petition as well as Civil Revision No. 4056 of 2001. For facility of dictating judgment, facts are being mentioned from this revision petition.

It is apparent from the records that when dispute arose between the parties, the matter was referred to an Arbitrator, who pronounced his award on May 22, 1996. The respondent No.1 then moved an application under Section 14 of the Arbitration Act, 1940, with a prayer that the Arbitrator be asked to pronounce the award and to make it rule of the Court. That application was dismissed vide judgment dated September 14, 1998, by the trial Court primarily on the ground that the Arbitrator had announced the award beyond the period of limitation, i.e., four months from the date of reference. Respondent No.1 went in appeal, which was partly allowed vide judgment dated July 22, 2000 and award was made rule of the

Court. However, interest and claim towards escalation in price was declined. Feeling dissatisfied, both the parties, i.e., petitioners and respondent No. 1 have filed revision petitions.

It is apparent from the records that no doubt, initially, matter was referred to the Arbitrator in the year 1993. However, on account of stay, granted by this Court, proceedings were kept in abeyance. Thereafter, Arbitrator issued notice to the petitioner on January 18, 1996, to participate in the proceedings, to which the petitioners gave their consent on January 20, 1996. Thereafter, the proceedings were conducted on January 31, 1996, February 8, 1996, February 23, 1996, March 6, 1996, March 13, 1996, March 20, 1996, April 5, 1996, April 30, 1996 and May 6, 1996.

It is also apparent from the records that on February 8, 1996, a representative of the petitioners made a request to the Arbitrator to postpone the proceedings for February 23, 1996, on the ground that the petitioners intend to move an application, before the competent Court, for change of the Arbitrator. Despite efforts made, petitioners failed and continued to participate in the proceedings. The appellate Court below has rightly held that the proceedings, in fact, had started on February 8, 1996, when the Arbitrator actually entered upon the reference, after both the parties put in appearance before him. It has also been found as a matter of fact that the petitioners never raised any objection before the Arbitrator regarding his competence to proceed with the reference. The Arbitrator perused the evidence on record minutely and passed the order, after judging every aspect of the dispute between the parties. Civil Court is not supposed to sit as a Court of appeal on the findings given by an Arbitrator. Unless

misconduct is indicated on the part of the Arbitrator, it is not possible for the Court to interfere in the award. No such fact has been established in this case. This Court is of the opinion that so far as claim of the petitioner towards award of interest and escalation in price etc. is concerned, the same was rightly rejected by the appellate Court below. In clause ix of the additional terms and conditions, attached with the agreement between the parties, it is specifically mentioned that the party shall not be entitled to claim interest and any charges towards escalation in prices etc.

In view of observations made above, no case is made out for interference. Dismissed.

December 14, 2006 (Jasbir Singh)
DKC Judge